

City of Houston, Texas, Ordinance No. 2015-820

AN ORDINANCE AMENDING THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO CHANGING THE NAME OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO THE HOUSTON HEALTH DEPARTMENT AND MAKING HOUSEKEEPING AMENDMENTS TO CHAPTERS 20, 21, AND 47 OF THE CODE; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the Department of Health and Human Services ("the department") was created and is governed by Chapter 21 of the Code of Ordinances, Houston, Texas ("the Code"); and

WHEREAS, the director of the Department of Health and Human Services has determined that the department is better described by the name "Houston Health Department"; and

WHEREAS, various provisions of the Code relating to the department contain references to obsolete terms, functions and personnel titles; and

WHEREAS, the department recommends that Council adopt the proposed amendments to Chapters 1, 2, 4, 7, 8, 10, 13, 14, 20, 21, 23, 26, 28, 32, 34, 39, 40, 43, 45 and 47 of the Code which in part shall:

- (1) Replace all references to the "Department of Health and Human Services" with "Houston Health Department";
- (2) Remove obsolete references to the Board of Health of the City;
- (3) Remove references to the payment rate of health care professionals who are independent contractors;
- (4) Replace all references to the "Texas Department of Health" with "Department of State Health Services";
- (5) Transfer the provision related to testing City drinking water from Chapter 21 to Chapter 47 so as to reflect current departmental duties;
- (6) Remove obsolete language pertaining to public health internships;
- (7) Remove Article II of Chapter 21, which contains obsolete references to the Board of Health; and

EXHIBIT

B

- (8) Remove Article III of Chapter 20, which contains obsolete references to the Southeast Hospital Financing Agency;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. That the definitions of the terms *director of public health* and *health officer* in Section 1-2(a) of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"Director of public health means only such officer; the term shall not be deemed to include that officer's designees, or to authorize that officer to delegate any authority or duty vested in him as director of the Houston Health Department, unless the intention to include designees, or to authorize delegation, is clearly expressed."

"Health officer means the director of public health or the director's duly authorized designees."

Section 3. That Section 2-363 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 2-364. Assistance by certain city departments.

The directors of the Houston Public Library System, the Houston Health Department, and the departments of planning and development finance, and administration and regulatory affairs and their staffs shall provide requested assistance to the center. The city attorney and his staff shall provide legal services and representation to the center."

Section 4. That Section 2-385 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 2-385. Assistance by certain city departments.

The directors of the departments of public works and engineering, planning and development, general services and human resources and the Houston Health Department and their staffs shall provide requested assistance to the commission. The city attorney and staff shall provide legal services and representation to the commission."

Section 5. That Section 4-1 of the Code of Ordinances, Houston, Texas, is hereby amended by (1) deleting the number designations before each definition therein, and (2) amending the definition of the term *department* to read as follows:

"*Department* means the Houston Health Department."

Section 6. That Section 4-16 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 4-16. Fees for operator's permit, decals; term of decals.

There shall be a fee for the ambulance operator's permit required pursuant to section 4-15 of this Code, and all permits issued under this chapter shall be valid for one year from the date of issuance. Such permits may be renewed after the termination date of the initial permit and during that same year by paying a prorated permit fee. There shall also be a charge for decals required pursuant to section 4-8 of this Code for each pair of decals issued, renewed or replaced. Decals expire concurrently with the ambulance operator's permit under which they are issued. Such fees and charges shall be collected by the department and transferred to the department of administration and regulatory affairs, together with an accounting of the permits and pairs of decals for which same were collected. The fees and charges are stated for this provision in the city fee schedule."

Section 7. That Section 4-19 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 4-19. Disposition of certain fees.

All fees collected under sections 4-3 and 4-16 of this Code shall be allocated to the department to fund the inspection of ambulances and the permitting of ambulance operators as required by this chapter and other

permitting, inspection, monitoring, controlling, education and enforcement activities pertaining to environmental health services of the department."

Section 8. That Subsection (h) of Section 7-74 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(h) Arrangement of materials. All automotive vehicles, parts and other materials located in or on the premises of any yard owned or operated by a metal recycler/secondhand metal dealer in the city shall be so arranged to allow reasonable access to, and inspection of, the premises by authorized fire and police officials, the health officer, and the neighborhood protection official. No materials shall be stored at a height greater than six feet within ten feet of the fence required herein."

Section 9. That Item (1) of Subsection (i) of Section 8-30 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(1) All automotive vehicles, parts and other materials located in or on the premises of any used automotive parts recycler, automotive rebuilder, automotive repair facility or automotive business dealing in used parts and used accessories in the city shall be arranged so as to allow reasonable access to, and inspection of, the premises by authorized fire, and police officials, the health officer, and the neighborhood protection official."

Section 10. That Subsection (b) of Section 10-752 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(b) The chief of police is primarily responsible for the enforcement of this article, in coordination with the fire chief, the city attorney, the director of public health and the directors of the departments of neighborhoods and public works and engineering, as appropriate to the circumstances of the violation."

Section 11. That Subsection (e) of Section 13-7 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(e) A person violating an executive order issued pursuant to this section may be issued a criminal citation enforceable in municipal court. The citation may be issued by any employee of the city so authorized in writing by the chief of police, the fire chief, the director of public health or

the directors of the departments of neighborhoods, parks and recreation, or public works and engineering."

Section 12. That Exhibit A to Rule 11, Division 11, entitled "Layoffs," of the Civil Service Rules for municipal employees, which appears following Section 14-145 in the Code of Ordinances, Houston, Texas, is hereby amended by deleting the term *Health and Human Services* and adding, in alphabetical order, the term *Houston Health Department*.

Section 13. That Section 20-161 of the Code of Ordinances, Houston, Texas, is hereby amended by (1) deleting the definition of the term *director*, and (2) amending the definition of the term *department* to read as follows:

"*Department* means the Houston Health Department."

Section 14. That Article III of Chapter 20 of the Code of Ordinances, Houston, Texas, is hereby amended by replacing, wherever it appears, the term *director* with the term *director of public health*.

Section 15. That Section 20-251 of the Code of Ordinances, Houston, Texas, is hereby amended by adding, in alphabetical order, the following new definitions:

"*Health department* means the Houston Health Department."

"*Parks department* means the department of parks and recreation."

Section 16. That Section 20-253 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 20-253. Program created.

There is hereby created the City of Houston Recognized Charitable Food Service Provider Program (the 'program'). The purpose of the program shall be to create a voluntary coalition of religious, community based, and charitable organizations and individuals dedicated to providing charitable food services in an organized, efficient, and cooperative

process, assuring sanitary, quality foods are delivered to those in need, while protecting the environment and the rights of private property owners. The program shall be coordinated jointly by the director of public health and one or more community-based organizations."

Section 17. That Section 20-257 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 20-257. Use of city parks and other city property for food service events.

The director of the parks department shall develop rules, regulations, and criteria for the use of park properties for food service events and shall maintain a list of park properties with areas approved for food service events. The director of public health shall develop rules, regulations, and criteria for the use of other city property for food service events and shall maintain a list of such properties with areas approved for food service events. The parks department and the health department shall coordinate designation of such properties to avoid redundancy and maximize the most effective use of the properties."

Section 18. That Sections 21-1 through 21-4 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"Sec. 21-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Department means the Houston Health Department.

Director means the director of public health.

Sec. 21-2. Houston Health Department—Created; general duties.

There is created the Houston Health Department. The officers and employees of that department are charged with the duty of enforcing all laws and ordinances relating to health and such other duties as are now or may hereafter be placed upon them by the mayor, city council and by the ordinances and Charter of the city. Any reference in this Code to the 'health department,' the 'area agency on aging,' the health and human services department,' or the 'health and human resources department' of the city shall mean a reference to the Houston Health Department.

Sec. 21-3. Same—Director designated; duties.

(a) The director of public health shall be the director of the Houston Health Department. For the purposes of this Code, the terms 'director of public health,' 'director of health,' 'director of health and human services,' 'director of health and human resources,' and 'director of the area agency on aging' shall be synonymous. The director of public health shall coordinate the activities and recommendations of the mayor, the Texas Department of State Health Services and the United States Public Health Service.

(b) It shall be the duty of the director of public health to enforce all laws, ordinances and regulations pertaining to public health, to enforce regulations necessary for the occupational health of commercial and industrial workers, and to perform all public health services provided for by the laws of the state and the ordinances and Charter of the city. He shall direct the Houston Health Department, and all employees thereof shall be under his immediate direction and control. The director is hereby authorized to prescribe the duties of each employee and change such duties from time to time as he sees fit. The director may delegate the supervision of various functions of the Houston Health Department to such of the employees of such department as he may designate. He shall have authority to remove any nonclassified employee from the Houston Health Department for cause.

(c) No provision of this Code shall be construed as requiring the director of public health to be a licensed physician in Texas. If the person serving in that position is not a licensed physician, then, as provided by Section 121.033 of the Texas Health and Safety Code, the director of public health shall appoint another person who is a licensed physician in Texas as the 'health authority' for the jurisdiction, subject to confirmation by city council. Consistent with state law, any function that devolves upon the director of public health and is required to be performed by a licensed physician shall be performed by the health authority instead of the director of public health if the director is not a licensed physician.

Sec. 21-4. Appointment of officers and employees and contract personnel of Houston Health Department generally.

The director shall be appointed by the mayor and confirmed by the council. All other officers and employees of the department, not exempted from civil service by article V-a of the charter, shall be appointed in accordance with such article V-a, except as otherwise specifically provided. The director shall have authority to pass upon the qualifications, efficiency and fitness of all employees in the Houston Health Department,

and no person shall be employed in the Houston Health Department until the director has approved his employment."

Section 19. That Section 21-7 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 21-7. Employee qualifications.

The holders of all the positions in the department shall possess qualifications in accordance with the standards heretofore laid down for persons performing public health functions, such standards having been approved and recommended by the state and territorial health officers and the Texas Department of State Health Services. All new employees appointed to any of such positions must meet all minimum requirements as set up by the state and territorial health officers and the Texas Department of State Health Services."

Section 20. That Section 21-14 of the Code of Ordinances, Houston, Texas, is hereby deleted, and Sections 21-15 and 21-15.1 are hereby renumbered Sections 21-14 and 21-15, respectively.

Section 21. That Section 23-1 of the Code of Ordinances, Houston, Texas, is hereby amended to delete the definition of the term *heath officer*.

Section 22. That Section 28-201 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting the definition *health and human services department facility* and adding new definition, in alphabetical order, to read as follows:

"*Health facility* means a public health clinic or a multi-purpose center operated by the Houston Health Department or a public health clinic operated for the city by another entity."

Section 23. That Item (2) of Subsection (a) of Section 28-202 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(2) No portion of the tract on which the hotel, other than a hotel with 120 or more separately rentable units and service facilities is situated may have frontage on or take any access from any street on which any school, library, church, licensed day care center,

health facility, or public park also has frontage, if the hotel tract would be within 750 feet of the school, library, church, licensed day care center, health facility, or public park tract. The distance shall be measured from the nearest point on the tract on which the hotel is situated to the nearest point on the tract on which the school, library, church, licensed day care center, health facility, or public park is situated."

Section 24. That Section 28-366 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"Sec. 28-366. Management to keep list of employees.

The manager or person in charge of a massage establishment shall maintain, on the premises, a list of the names and addresses of all employees therein, both on duty and off duty, and such list shall be readily available for inspection upon the request of any law enforcement officer or health officer. Failure to comply with this provision shall be an offense."

Section 25. That Section 28-401 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting the definition of the term *health officer*.

Section 26. That Subsection (c) of Section 28-457 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(c) The director may enter the premises of a boarding home facility at reasonable times to make an inspection, survey, or investigation to assure compliance with this ordinance and to protect the health, safety, or welfare of the residents of a boarding home. The director may be assisted in any investigation by representatives of the department of public works and engineering, the fire department, the department of neighborhoods, the Houston Health Department, or other city agencies or entities with appropriate jurisdiction over matters affecting the health, safety, or welfare of the residents of a boarding home. During the course of any inspection, the owner, operator, and any employee of the boarding home facility shall be required to identify themselves and provide documentation of their identity upon the request of the director or any other city representative participating in the inspection."

Section 27. That Subsection (d) of Section 39-96 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(d) The name and telephone number required to be posted by this section shall be printed on a vertical or nearly vertical surface upon both sides, and when the configuration of the vehicle allows, in the rear, in proportional and proportionally spaced block letters and numbers not less than three inches in height having a brush stroke not less than three-eighths inch in width, shall be of a solid color which contrasts with the background color upon which they are printed and shall be maintained in a clean and unobstructed manner at all times. Abbreviated names may be used, provided that the hauler notifies the director of public health and the solid waste management department director of the abbreviation. In the event that the vehicle is designed in such a manner that the solid waste is transported within a trailer or off-site service type of receptacle which is towed or carried by the vehicle, then the letters and numbers required on the rear of the vehicle may be printed upon such trailer or receptacle in lieu of the vehicle itself. The requirement may be met through the use of decals."

Section 28. That Subsection (b) of Section 39-97 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

"(b) The name and telephone number required to be posted by this section shall be printed on a vertical or nearly vertical surface upon the bulk container in proportional and proportionally spaced block letters and numbers not less than two and one-fourth inches in height having a brush stroke of not less than three-eighths inch in width, shall be of a solid color which contrasts with the background color upon which they are printed and shall be maintained in a clean condition at all times. Abbreviated names may be used, provided that the bulk container service provider notifies the director of public health and the solid waste management department director of the abbreviation. If the bulk container is designed for on-premise emptying, then the name and telephone number shall be printed on the side thereof which is intended for access by the truck or other mechanical device which empties the bulk container."

Section 29. That Section 43-2 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting the definition of the term *health officer*.

Section 30. That Chapter 47 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Section 47-6 that reads as follows:

"Sec. 47-6. Drinking water.

The utility official shall conduct an effective program to insure that all drinking water used by the residents of the city is safe and free from any deleterious matter and that it complies with all laws, rules, regulations and standards for drinking water of the state and the United States. Such program shall include, but not be limited to, the duty to:

- (1) Conduct drinking water quality monitoring and evaluation and maintain records thereof.
- (2) Investigate complaints of violation of Article 4477-1 of the Revised Civil Statutes of Texas and other state and federal laws applicable to drinking water standards and rules, regulations and standards issued thereunder by obtaining samples of drinking water, performing analysis and testing thereof and maintain records of such complaints, sampling, testing and analysis.
- (3) Cooperate with the city attorney and with county, state and federal officers, offices, departments and agencies in the filing and prosecution of legal actions for the enforcement of civil and criminal sanctions relating to the provision, use, sale or supply of unsafe drinking water.
- (4) Collect and disseminate information to the general public regarding drinking water quality and safety."

Section 31. That the definitions of the terms *city official* and *department or HDHHS* in Section 47-411 of the Code of Ordinances, Houston, Texas, are hereby amended to read as follows:

"*City official* means the director of public health or the director of the department of public works and engineering or their designees."

"*Department or HHD* means the Houston Health Department."

Section 32. That Chapter 21 of the Code of Ordinances, Houston, Texas, is hereby amended by deleting and reserving Articles II and III.

Section 33. That the Code of Ordinances, Houston, Texas, is hereby amended by replacing, wherever they appear, the following terms:

director of health and human services

director of the health and human services department

director of the health department

with the term:

director of public health.

Section 34. That the Code of Ordinances, Houston, Texas, is hereby amended by replacing, wherever they appear, the following terms:

city health and human services department

city health department

city's department of health and human services

City of Houston health and human services department

City of Houston Health and Human Services Department

department of health

department of health and human services

health and human services department

health department

with the term:

Houston Health Department.

Section 35. That the Code of Ordinances, Houston, Texas, is hereby amended by replacing, wherever it appears, the term *HDHHS* with the term *HHD*.

Section 36. That the Code of Ordinances, Houston, Texas, is hereby amended by replacing, wherever it appears, the term *Texas Department of Health* with the term *Texas Department of State Health Services*.

Section 37. That the incumbent Director of Public Health, who is the director of the Health and Human Services Department, upon the effective date of this Ordinance shall continue to serve as the director of the Houston Health Department.

Section 38. To the extent that the Code of Ordinances, Houston, Texas, or any other ordinance or any motion, resolution, contract or other document devolves duties upon the former Health and Human Services Department or upon the employees or director thereof, then such references shall be construed to mean the Houston Health Department and the employees and director thereof.

Section 39. That the City Attorney is hereby authorized to direct the publisher of the Code of Ordinances, Houston, Texas, (the "Code") to make such nonsubstantive changes to the Code as are necessary to conform to the provisions adopted in this Ordinance, and also to make such changes to the provisions adopted in this Ordinance to conform them to the provisions and conventions of the published Code.

Section 40. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 41. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon its passage and approval by the Mayor.

PASSED AND APPROVED this 26th day of August, 2015.

Annise D. Parker
Mayor of the City of Houston

Prepared by Legal Dept. Jeffery Gram

TE:asw 8/11/2015

Assistant City Attorney

Requested by Stephen L. Williams, Director, Health and Human Services Department

L.D. File No.0381500079001

Roll CALL VOTE		
AYE	NO	
✓		MAYOR PARKER
....	COUNCIL MEMBERS
	✓	STARDIG
✓		DAVIS
	✓	COHEN
	✓	BOYKINS
	ABSENT	MARTIN
✓		NGUYEN
✓		PENNINGTON
✓		GONZALEZ
✓		GALLEGOS
✓		LASTER
✓		GREEN
	ABSENT	COSTELLO
✓		ROBINSON
	✓	KUBOSH
	✓	BRADFORD
✓		CHRISTIE
CAPTION	ADOPTED	

CAPTION PUBLISHED IN DAILY COURT

REVIEW

DATE: SEP 01 2015